

DEPARTMENT OF STATE REVENUE

**LETTER OF FINDINGS NUMBER: 99-0122 MVE
MOTOR VEHICLE EXCISE TAX
FOR TAX PERIOD: 12/31/96 THROUGH 09/30/98**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department=s official position concerning a specific issue.

ISSUES

I. Motor Vehicle Excise Tax – Imposition

Authority: IC 9-13-2-78; IC 9-18-2-1; Black’s Law Dictionary (6th ed. 1990).

Taxpayer protests the imposition of motor vehicle excise tax on her 1996 Mazda.

II. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1

Taxpayer protests the imposition of a ten percent penalty.

STATEMENT OF FACTS

Taxpayer purchased her 1996 Mazda on December 2, 1996. At that time, taxpayer was a full-time, undergraduate student in Wisconsin. Taxpayer licensed, registered and insured the vehicle in Wisconsin after its purchase. Taxpayer licensed and registered the vehicle in Indiana beginning September 1998. Taxpayer was assessed the motor vehicle excise tax for the period December 2, 1996 through September

1998. Taxpayer protested the assessment. Additional information will be provided below, as necessary.
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I. Motor Vehicle Excise Tax – Imposition

DISCUSSION

Pursuant to Indiana Code section 9-18-2-1, within sixty days of becoming an Indiana resident, a person must register all motor vehicles owned by that person that will be operated in Indiana.

Indiana Code section 9-13-2-78 defines “Indiana resident” as a person who is one of the following:

- (1) A person who has been living in Indiana for at least one hundred eighty-three (183) days during a calendar year and who has a legal residence in another state. However, the term does not include a person who has been living in Indiana for any of the following purposes:
 - (A) Attending an institution of higher education.
 - (B) Serving on active duty in the armed forces of the United States.
- (2) A person who is living in Indiana if the person has no other legal residence.
- (3) A person who is registered to vote in Indiana.
- (4) A person who has a child enrolled in an elementary or secondary school located in Indiana.
- (5) A person who has more than one-half (1/2) of the person’s gross income derived from sources in Indiana ... However, a person who is considered a resident under this subdivision is not a resident if the person proves by a preponderance of the evidence that the person is not a resident under subdivisions (1) through (4).

A legal residence or domicile is defined by Black’s Law Dictionary as, “A person’s legal home. That place where a man has his true, fixed, and permanent home and principal establishment, and to which whenever he is absent he has the intention of returning.” Black’s Law Dictionary 484 (6th ed. 1990). Taxpayer claims to have intended Wisconsin to be her legal residence. She claims she intended to stay in Wisconsin after graduating from college.

A person may have more than one residence but only one domicile. The Department considers many factors in determining the taxpayer’s intent and actual domicile. These factors include but are not limited to the taxpayer paying out of state tuition, taxpayer not filing income tax returns in Wisconsin (taxpayer was claimed as a dependent on her father’s return filed in Indiana), and taxpayer not registering to vote in Wisconsin. Ultimately, taxpayer did not remain in Wisconsin after graduation. She returned to Indiana for employment purposes.

The Department finds taxpayer’s domicile was Indiana throughout the assessment period.

FINDING

Taxpayer's protest is denied. Taxpayer has failed to prove her legal residence was Wisconsin throughout the assessment period. As an Indiana resident, taxpayer was required to license and

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register her vehicle in Indiana.

II. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the imposition of a ten percent penalty on her failure to properly license and register her vehicle in Indiana. Taxpayer claims to have acted in good faith and on the advice of her parents, her insurance agent, the dealer who sold the vehicle and licensing agents in Wisconsin.

Pursuant to IC 6-8.1-10-2.1, a taxpayer may avoid the penalty by an affirmative showing of a reasonable cause for the taxpayer's failure. In this case, taxpayer has illustrated sufficient reasonable cause for her failure to license and register the vehicle in Indiana for the assessment period.

FINDING

Taxpayer's protest is sustained.